

§ 31.3306(p)-1

26 CFR Ch. I (4-1-11 Edition)

they are not excepted from employment by reason of the fact that they are performed on or in connection with an American vessel which is owned by or bareboat chartered to the United States and whose business is conducted by a general agent of the Secretary of Commerce, that is, such services are not excepted from employment by section 3306(c)(6). For provisions relating to services performed within the United States and services performed outside the United States which constitute employment, see § 31.3306(c)-2.

(b) The expression “officer or member of the crew” includes the master or officer in charge of the vessel, however designated, and every individual, subject to his authority, serving on board and contributing in any way to the operation and welfare of the vessel. Thus, the expression includes, for example, the master, mates, pilots, pursers, surgeons, stewards, engineers, firemen, cooks, clerks, carpenters, and deck hands.

(c) An employee of the United States who performs services as an officer or member of the crew of an American vessel which is owned by or bareboat chartered to the United States and whose business is conducted by a general agent of the Secretary of Commerce shall be deemed, under section 3306(n), to be performing services for such general agent rather than for the United States. Any such general agent of the Secretary of Commerce is considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account. Each such general agent who in his capacity as such qualifies as an employer under section 3306(a) is with respect to each calendar year for which he so qualifies subject to the tax imposed by section 3301, and to all the requirements imposed upon an employer as defined in section 3306(a) by the regulations in this part, with respect to services which constitute employment by reason of section 3306(n) and this section of the regulations.

§ 31.3306(p)-1 Employees of related corporations.

(a) *In general.* For purposes of sections 3301, 3302, and 3306(b)(1), when two

or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations for which the individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual (unless the disbursing corporation fails to remit the taxes due). Paragraphs (b) and (c) of § 31.3121(s)-1 contain rules defining related corporations, common paymasters, and concurrent employment, and rules for determining the liability of the other related corporations for employment taxes if the common paymaster fails to remit the taxes pursuant to sections 3102 and 3111, and for allocating these taxes among the related corporations. Those rules also apply to the tax under section 3301. For purposes of applying those rules to this section, references in those rules to section 3111 are considered references to sections 3301 and 3302, and references to section 3121 are considered references to section 3306.

(b) *Allocation of credit for contributions to State unemployment funds.* A special rule for applying the rules of § 31.3121(s)-1 to this section applies if it is necessary to determine the ultimate liability of each related corporation for which services are performed in the event the common paymaster fails to remit the tax to the Internal Revenue Service. In determining the ultimate liability of a corporation, the credit for contributions to State unemployment funds that the corporation may claim under section 3302 is calculated as if each corporation were a separate employer.

(c) *Effective date.* This section is effective with respect to wages paid after December 31, 1978.

[T.D. 7660, 44 FR 75142, Dec. 19, 1979]

§ 31.3306(r)(2)-1 Treatment of amounts deferred under certain nonqualified deferred compensation plans.

(a) *In general.* Section 3306(r)(2) provides a special timing rule for the tax imposed by section 3301 with respect to any amount deferred under a nonqualified deferred compensation plan. Section 31.3121(v)(2)-1 contains rules relating to when amounts deferred under